

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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FALLON VALDEZ,

Case No. 7:21-cv-09261

Plaintiff(s),

COMPLAINT

-against-

ENLARGED CITY SCHOOL DISTRICT OF
MIDDLETOWN, KAREN MARCONI,
AND RACHEL KOONTZ,

Defendant(s).
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Plaintiff Fallon Valdez, by her attorneys Preston & Wilkins LLC, 3000 Hempstead Turnpike, Suite 317, Levittown, New York 11756 complaining of the Defendants alleges and says:

JURISDICTION AND VENUE

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. Section 2000e *et seq.*, the Civil Rights Act of 1866, 42 U.S.C. 1981 (“1981 Civil Rights Act”); and the New York State Human Rights Law, Article 15 of the New York Executive Law Sections 290 *et seq.*, (“NY Executive Law”). This Court has jurisdiction over this controversy pursuant to 28 U.S.C. §§1331, and 1343, and has supplemental jurisdiction over state law claims of Plaintiff pursuant to 28 U.S.C. §1367.
2. Venue is proper in the Southern District pursuant to 28 U.S.C. §1391.

ADMINISTRATIVE PROCEDURES

3. Plaintiff timely filed a charge of discrimination against the Defendants with the Equal Employment Opportunity Commission (“EEOC”) and the New York State Division of Human Rights on or about October 11, 2019.
4. On August 12, 2021, Plaintiff received from the EEOC a Dismissal and Notice of Rights.
5. Plaintiff has timely commenced this action within 90 days of Plaintiff’s receipt of the Dismissal and Notice of Rights.
6. Plaintiff has satisfied all private, administrative and judicial prerequisites to the institution of this action.

THE PARTIES

7. Plaintiff Falon Valdez is Hispanic American Citizen of the United States and is a resident of Middletown, New York.
8. Upon information and belief and at all relevant times mentioned herein, Defendant the Enlarged City School District of Middletown (“Middletown School District”) was and is a public-school system organized and existing under the laws of the State of New York.
9. Middletown School District’s main office is located at 223 Wisner Avenue, Middletown, New York .
10. Middletown is an employer within the meaning of Title VII, the Civil Rights Act and domestic business corporation duly licensed and organized under and by virtue of the laws of the State of New York.
11. Defendant Karen Marconi was employed by the Middletown School District as the Director of Special Education.
12. Defendant Rachel Koontz was employed by the Middletown School District at the Special Education Instructional Leader.

STATEMENT OF FACTS

13. On October 19, 2018, Ms. Valdez was hired by Middletown School District as a District Accountability Analyst in the Special Services Department.
14. Ms. Valdez was qualified for the position of District Accountability Analyst.
15. Ms. Valdez was advised that a prerequisite for the position was to have taken and passed the civil service exam, which she did.
16. Ingrid Molloy (“Molloy”), who is Caucasian was employed by Middletown School District in August of 2018 as a District Accountability Analyst, but was not required to take the civil service exam.
17. Since Ms. Molloy had previously worked for the Middletown School District she was directed to train Ms. Valdez.
18. In or about November 2018, Defendant Marconi emailed Plaintiff, another employee and Molloy about Beds Day Report’s that were due.
19. Ms. Molloy, nor did Defendant Marconi train Ms. Valdez and advise her that she had to prepare a Beds Day Reports.

20. Upon being advised that the reports had to be prepared Ms. Valdez and the other employee undertook to prepare the report. Ms. Marconi specifically forbid Molloy from assisting Ms. Valdez in the preparation of the report.
21. In or about May 2019, Ms. Valdez' employment was terminated, purportedly for her work performance. Specifically, "her failure to ensure that state mandated notices were timely provided to parents in advance of their children's Committee on Special Education meeting ("CSE").
22. Defendant Marconi in concert with Defendant Koontz recommended Ms. Valdez' termination.
23. Ms. Valdez, however, was trained that the state mandated notices were not to be sent out to parents in advance of the CSE meeting.
24. Any error of Ms. Valdez in processing the state mandated notices was as a result of the training from Ms. Molloy.
25. Additionally, upon information Ms. Molloy processed the state mandated invoices in the same manner that Ms. Valdez processed the invoices.
26. Ms. Molloy, who is similarly situated with Ms. Valdez was not disciplined or terminated for how she processed that state mandated notices, nor how she trained Ms. Valdez to process the notice.
27. Conversely Ms. Valdez was terminated.
28. Plaintiff was subject to disparate treatment discrimination based upon her race and ethnicity.
29. Based upon the above, Plaintiff believes that she was subject to discrimination in violation of Title VII, the Civil Rights Act and the New York Executive Law.

FIRST CAUSE OF ACTION
(Violation of Title VII)

30. Plaintiff repeats and realleges the averments of paragraph 1 through 29 as if fully set forth herein.
31. By reason of the foregoing, the Defendant Middletown School District has deprived Plaintiff of certain benefits, privileges, terms and conditions of her employment in violation of Title VII by discriminating against Plaintiff because of her race and ethnicity.
32. As a result of the Defendants actions, Plaintiff suffered damages, irreparable harm and injury.

SECOND CAUSE OF ACTION
(Violation of 1981 Civil Rights Act)

33. Plaintiff repeats and realleges the averments of paragraph 1 through 32 as if fully set forth herein.
34. By reason of the foregoing, the Defendants has deprived Plaintiff of certain benefits, privileges, terms and conditions of her employment in violation of 1981 Civil Right Act by discriminating against Plaintiff because of her race and ethnicity.
35. All Defendants are jointly and severally liable because they discriminated against Plaintiff, exercised control over personnel decisions and/or aided and abetted the discrimination against the Plaintiff.
36. As a result of the Defendants actions, Plaintiff suffered damages, irreparable harm and injury.

THIRD CAUSE OF ACTION
(Violation of the New York Executive Law)

37. Plaintiff repeats and realleges the averments of paragraph 1 through 36 as if fully set forth herein.
38. By reason of the foregoing, the Defendants has deprived Plaintiff of certain benefits, privileges, terms and conditions of her employment in violation of the New York Executive Law by discriminating against Plaintiff because of her race and ethnicity.
39. All Defendants are jointly and severally liable because they discriminated against Plaintiff, exercised control over personnel decisions and/or aided and abetted the discrimination against the Plaintiff.
40. As a result of the Defendants actions, Plaintiff suffered damages, irreparable harm and injury.

PRAYER FOR RELIEF

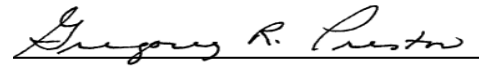
WHEREFORE, Plaintiff respectfully requests the entry of Judgment in favor of the Plaintiff against Defendants, in an amount to be determined by the Court for compensatory, consequential punitive damages, attorney fees, interest and cost.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands trial by jury on all triable issues of law.

Dated: November 9, 2021
Levittown, New York

Yours etc.,
Preston & Wilkins LLC

A handwritten signature in black ink, reading "Gregory R. Preston", is written over a horizontal line.

By: Gregory R. Preston, Esq.
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